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August 2, 2005

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**ELECTRONICALLY FILED
(VIA ECFS)**

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: MB Docket No. 03-15
WXXA-DT, Albany, NY (Facility Id. # 11970)
Request for Waiver and Extension of Replication/Maximization
Interference Protection Deadline**

Dear Ms. Dortch:

On behalf of Clear Channel Broadcasting Licenses, Inc. ("CCBL"), the licensee of station WXXA-TV, Albany, New York (Facility Id. No. 11970), we hereby request a waiver and extension of the August 4, 2005 deadline for construction of "checklist" digital television ("DTV") facilities. *See Second Periodic Review of the Commission's Rules and Regulations Concerning the Transition to Digital Television*, MB Docket No. 03-15, FCC 04-192, ¶¶ 110-11 (rel. Sept. 7, 2004) ("*Second Periodic Review*"). This request is being filed electronically through ECFS pursuant to the FCC's public notice regarding requests for waiver of the deadline. *See Public Notice, DTV Channel Election Issues – Compliance with the July 1, 2005 Replication/Maximization Interference Protection Deadline; Stations Seeking Extension of the Deadline*, DA 05-1636 (rel. June 15, 2005) ("*June 15 Public Notice*").

As a DTV station that had not yet been granted an initial DTV CP at the time that the *Second Periodic Review* was adopted, WXXA is subject to the requirement that it construct and operate "checklist" facilities that conform to the DTV Table of Allotments and other key processing requirements by August 4, 2005. *Id.* at 3; *Second Periodic Review* at ¶ 111. As explained below, however, due to circumstances beyond its control, WXXA's "checklist" application has not yet been granted. Thus, WXXA cannot meet the August 4 deadline, rendering a waiver and extension of the deadline appropriate. *See Second Periodic Review* at ¶ 113; *see also* 47 C.F.R. § 1.3.

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On March 10, 2004, the Commission released a Report and Order in MB Docket No. 02-92 which amended the DTV Table of Allotments to change the initial DTV channel allotment for WXXA from channel 4 to channel 7. *See Amendment of Section 73.6222(b), Table of Allotments (Albany, New York)*, 19 FCC Rcd 4329 (2004) (“*Report and Order*”). Accordingly, on April 29, 2004, CCBL amended its pending application for an initial DTV construction permit to specify DTV channel 7 in lieu of DTV channel 4. *See* FCC File No. BPCDT-19991027ABR, as amended. The application, as amended, constitutes a “checklist” application. *See Second Periodic Review* at ¶ 111 & n.245.

In the meantime, two petitions for reconsideration seeking to overturn the *Report and Order* were filed. Although the pleading cycle ended on August 31, 2004, the Commission did not resolve the petitions for reconsideration – which have now been denied – until June 1, 2005. *See Amendment of Section 73.6222(b), Table of Allotments (Albany, New York)*, MB Docket No. 02-92, RM-10363, DA 05-1494 (rel. June 1, 2005). CCBL expected issuance of WXXA’s DTV construction permit shortly after the petitions for reconsideration were granted, and has been in regular contact with FCC staff regarding the status of the application. As of the date of this filing, however, the application has not yet been granted.

Despite the absence of a DTV construction permit, since the denial of the petitions for reconsideration on June 1, 2005,¹ CCBL has diligently taken steps designed to allow it to complete construction of DTV facilities and commence operations as quickly as possible following the FCC’s grant of WXXA’s DTV construction permit application. Specifically, CCBL promptly ordered the DTV transmitter and all related equipment, and expects to receive these items in late September. In addition, CCBL has constructed the transmitter building and tower that will house the DTV facilities, and has commenced electrical installation. Upon the FCC’s grant of WXXA’s DTV construction permit application, CCBL intends to construct and commence full power operations with the facilities specified therein as expeditiously as possible. Assuming a prompt grant of the construction permit application, and based on the actions that it has already taken, WXXA could be operating with DTV facilities by early October.

¹ Due to the uncertainty occasioned by the pendency of the petitions for reconsideration, CCBL could not have taken steps to move towards construction of the facilities specified in WXXA’s DTV construction permit application prior to this date.

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In sum, due to circumstances beyond CCBL's control, WXXA's DTV construction permit application remains pending as of the date of this filing, rendering it impossible for CCBL to comply with the August 4, 2005 deadline for construction of "checklist" facilities. Nevertheless, CCBL has taken all steps possible to ensure that it is able to complete construction and commence DTV operations as quickly as possible following the grant of WXXA's DTV construction permit application. In light of these facts, CCBL submits that a grant of the requested waiver and extension of the August 4 deadline is appropriate and respectfully requests that the Commission continue to afford WXXA full interference protection for both its DTV allotment contour and the contour specified in its pending DTV construction permit application.

If there are any questions concerning this matter, please contact the undersigned.

Sincerely,

A handwritten signature in dark ink, appearing to read "John M. Burgett", is written over the printed name.

John M. Burgett

cc (by email): Shaun Maher